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*West Virginia Bar Association*

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# WEST VIRGINIA LAW QUARTERLY *and* THE BAR

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## THE LAWYER — AN APPRAISEMENT\*

WILLIAM G. STATHERS\*\*

The life of a lawyer is one of conflict and toil from the day he begins practice until the day he ends his career. In this struggle it is quite natural that occasionally some voice is raised in protest against the prominence of lawyers in public affairs. If this is an evil, it is wholly inescapable. But when anonymous articles appear in widely circulated periodicals warning the reader against the law as a profession<sup>1</sup> and men in high places charge the ablest lawyers of the country with being participants in a conspiracy to defeat the ends of justice and to prevent the underprivileged from securing the benefits of social and economic reform, and then state that in the drafting of the Constitution setting up the new republic with guaranteed rights to the individual and strict limitations on all governing agencies, the lawyers of that day played a minor role, and that in every period in the one hundred and fifty-two years that have elapsed since the Constitution was formulated it has been the lawyers of the country who took all the leading roles in the effort to subvert the Constitution and use it to defeat the people's will,<sup>2</sup> it is time to stop and see if we are as bad as represented. Again, when a prominent official, with a comfortable salary, solemnly declares that the bar generally is not adequately serving millions of people because lawyers' charges are so high that the cost of legal

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\* Address of the President of the West Virginia Bar Association, delivered at the fifty-fifth meeting of that Association at Clarksburg, West Virginia, on September 29, 1939. Introductory remarks omitted.

\*\* President of the West Virginia Bar Association 1938-39; member of the Clarksburg bar.

<sup>1</sup> See *Don't Be a Lawyer* (Jan. 1936) 37 AMERICAN MERCURY 30.

<sup>2</sup> Addresses of President Roosevelt in 1937, especially those of March 4, August 18, and September 17.

services is prohibitive to those of moderate means, and thus attempts to prejudice the country against lawyers,<sup>3</sup> will our profession under such misrepresentation not be granted indulgence for a sin against convention and against modesty in reminding our fellow citizens of its good deeds?

In one magazine article the author assembles some of the reprehensible practices of which a few unworthy barristers have been guilty, and from these isolated facts he reaches the amazing conclusion that young men considering a life's vocation should shun the law as a pestilence if they would retain their self-respect and preserve their moral integrity.<sup>4</sup>

Granted that we do have a few "ambulance chasers" and other gentry of like color and stripe, it is the widespread and serious activities of the American Bar Association, this association and the local bar associations that are ridding the profession of these undesirables. In recent years scores of these persons throughout the country have been subjected to discipline and even disbarred for life. We do not attempt to deny or minimize these unfortunate occurrences, but on the contrary boldly turn the light on our efforts to separate the wheat from the chaff.

During the past year a former newspaper man<sup>5</sup> of Chicago and New York has contributed three articles for one of our best known magazines in which he makes a number of scurrilous remarks about lawyers. According to him the large-scale man of affairs, whether he knows it or not, approaches the technician skilled in corporation law, wise in the way of politics, politicians and judges, as a gambler approaches a roulette wheel. The technician in a certain phase of the law offers the gambler a means of taking a chance for a large possible gain; and in return for his advice the technician exacts a heavy fee, which may or may not be contingent upon the outcome of the gamble.

Criticizing for the most part the corporation lawyers, the same author states that it is the considered opinion of many observers that business today is "in the doghouse," as the saying goes, largely because of the entirely successful ministrations of lawyers. His appetite not yet appeased, he gives the corporation lawyers another

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<sup>3</sup> Address of Robert H. Jackson, Solicitor General of the United States, Briefless Barristers and Lawyerless Clients, at the Junior Bar Conference of the American Bar Association, San Francisco, July 9, 1939.

<sup>4</sup> *Don't Be a Lawyer* (Jan. 1936) 37 AMERICAN MERCURY 30.

<sup>5</sup> Lundberg: *The Legal Profession* (Dec. 1938) 178 HARPERS 1, *The Priesthood of the Law* (Apr. 1939) 178 HARPERS 515, *The Law Factories* (July 1939) 179 HARPERS 180.

jab and says that they are less lawyers than privileged conspirators against the public welfare and, in the end, against the long-run interests of their clients. Subsequently he says that these same lawyers are an integral part of business, finance and industry, and are a purely American phenomenon and the brains of American capitalism. This writer, with his vacillating statements, no doubt believes himself to be the only person in the country today qualified to give an opinion on the current economic situation and its causes. He blames whatever social injustice may exist on the legal profession, and classifies the profession with theology, and lawyers and judges with theologians — practitioners of a theology that knows no God. Not content with this denunciation he adds that it is the lawyer's license, rather than his supposed learning, that confers competency upon him. After citing one lawyer who had been guilty of questionable practices he continues with the statement that the bar democratically welcomes the prospective saint and sinner, the genius and the dullard, and turns them loose indiscriminately upon society. This is a gross misstatement, for it is recognized that in no other profession than ours is a more sincere attempt made to limit the practice to men of high character, and now practically all states require a certificate of good moral character before issuing a license to practice law to a person otherwise qualified.

In an article published this month, a professor of law<sup>6</sup> at one of our large universities, who is supposed to teach law to the neophyte, compares lawyers of today with the medicine men of tribal times and the priests of the middle ages, and after making fun of the lawyers' talk and the lawyers' way of thinking, accuses them of laying down the rules under which we live through the medium of their weird and wordy mental gymnastics, and asserts that the only reason the lawyers continue to get away with it is because the average man cannot play their game and so cannot see for himself how intrinsically empty of meaning their playthings are.

When an important public question is in litigation, how often have you heard some uninformed person make the observation, "Well, the Supreme Court has the last guess, and only the Lord knows what the outcome will be!" Such remarks are to be deplored, but they suggest that the bar as a whole might do something to improve the public opinion of lawyers. We do not want any part of our population to believe that consulting a lawyer or

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<sup>6</sup> Rodell, *The Law is the Bunk* (Sept. 1939) 102 FORUM 109.

taking a case to court is like playing a quarter in a slot machine or betting on the throw of the dice. Either you guess the winning combination or you are out of luck.

Criticism of lawyers is as old as law itself, and as long as justice is administered by fallible human beings, this criticism will continue. Antiquity abounds with such criticism. It recurs in the Bible. The Saviour of mankind nearly always coupled the scribes, most of whom at the period of the New Testament were lawyers, with the Pharisees, who, using the parlance of today, were the economic royalists of those days. Some of you may remember the quotation from St. Luke:

"Woe unto you, scribes and Pharisees, hypocrites! for ye are as graves which appear not, and the men that walk over them are not aware of them.

"Then answered one of the lawyers, and said unto him, Master, thus saying thou reproachest us also.

"And he said, Woe unto you also, ye lawyers! for ye lade men with burdens grievous to be borne, and ye yourselves touch not the burdens with one of your fingers. . . .

"Woe unto you, lawyers! for ye have taken away the key of knowledge; ye entered not in yourselves, and them that were entering in ye hindered."

In the middle ages, when the Peasant Rebellion blazed over Germany in 1525, one of the most fervent prayers of the proletariat of the time was to be delivered from the swarm of lawyers who, like locusts, devoured them.

Nor was the immortal Shakespeare averse to a sharp line at the expense of the lawyer. In *Henry VI*, he has Jack Cade's follower say: "The first thing we do, let's kill all the lawyers." Thirty years later Robert Burton, a well known English author, said: "Our wrangling lawyers . . . are so litigious and busy here on earth, that I think they will plead their clients' causes hereafter, some of them in hell." The learned Samuel Johnson cynically wrote: "Here the fell attorney prowls for prey." And Poor Richard put it another way: "A countryman between two lawyers is like a fish between two cats."

In our day, under the influence of movies, radio and the sensational dailies, the public is furnished with standardized stock pictures of lawyers showing (1) a trickster who aids racketeers in many and devious ways; (2) a valiant young district attorney who mar-

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<sup>7</sup> St. Luke 11, 44-46, 52.

ries the fair defendant; (3) a city slicker, who, after foreclosing the old homestead, smiles villainously when the widow and her five children are thrown out into the rain; or (4) a fat well-groomed individual, whose intentions are consistently dishonorable, whether escorting a lady to the theatre or reorganizing a corporation.

The lawyer as thus epitomized on the screen, over the air and in the papers, occupies a very low place in public esteem, but the picture thus presented may be easily refuted. The vast majority of the legal profession is composed of men of unquestioned honesty and integrity, and people entrust them daily with their most important affairs, never doubting that they will receive skilled, competent and solicitous care. These are the lawyers who are doing the great majority of the legal business of the country. You will not find them hanging around police courts and justices' offices attempting forcibly to fasten themselves as leeches on some poor wretch arrested for a petty misdemeanor. Nor will one reach their offices by the blackjack route. It is obvious that their law practice does not consist of garnishment of salaries of wage-earners, where the costs often exceed the judgment, nor in taking furniture from the poor who are in default of a small monthly installment. Every citizen, irrespective of race, color or creed, enjoying security in his person and property, depends absolutely upon the law, expounded by lawyers at the bar and declared by judges from the bench. By them and by them alone is he made secure in his most prized possessions not only against the night marauder and the business sharper, but also against unconstitutional enactments of legislative bodies responsive to transitory, temporary and often emotional spasms.

The subject selected for today's discussion has been suggested by the vicious and unjust criticism of lawyers which has increased during the past few years. Time does not permit an answer to this criticism, some of which is so ridiculous and absurd as to need no comment, but in a general way there will be pointed out some of the contributions made by American lawyers. The record of the bar is clear to him who reads, for it is written in the history of the country. Who can deny that even before the founding of the republic lawyers have been the leaders of constructive thought and action throughout the country?

Possibly the first person to raise his voice in behalf of American independence was James Otis, a prominent lawyer in the

colony of Massachusetts. The Writs of Assistance issued in 1755 were about to expire, and it was decided to issue new ones, which would empower customhouse officers to search any house for smuggled goods, though neither the house nor the goods had to be specifically mentioned in the writs. Much opposition was aroused in Massachusetts, the legality of the writs was questioned, and the superior court consented to hear argument. Otis held the office of advocate-general at the time, and it was his duty to appear on behalf of the government. He refused, resigned his office and appeared for the people against the issue of the writs. The case was argued in the Old Town House of Boston in February, 1761, and the chief speech was made by Otis. His plea was fervid in its eloquence and fearless in its assertion of the rights of the colonists. Going beyond the question at issue, he dealt with the more fundamental question of the relation between the English in America and the home government, and argued that even if authorized by act of parliament such writs were null and void.

Of this speech, John Adams says:

“American independence was then and there born; the seeds of patriots and heroes were then and there sown . . . . Then and there was the first scene of the first act of opposition to the arbitrary claims of Great Britain. Then and there the child independence was born.”

When the colonists were sorely pressed with unjust taxes and determined to take a firm stand against governmental injustice and the curtailment of liberty, and it was apparent that the evils of that day could not be cured without a war, they gave us on July 4, 1776, the Declaration of Independence. The twenty-seven detailed grievances in that document cover almost every phase of life. These complaints were against a King, his parliament and minions, who ran the colonies about as they pleased, obstructing justice, creating new and unnecessary offices, quartering soldiers in their midst in times of peace, and imposing on them in numerous other ways. Possibly the most obnoxious forms of oppression were the imposition of taxes upon these early citizens without their consent and making judges dependent on the will of the King — two evils which rise today to plague the people. There are fifty-six signatures to this instrument, and twenty-five are the signatures of lawyers, and it is confidently asserted that the words of that immortal document are the words of lawyers.

The colonial troops won the Revolution and the fruits of that

victory ripened into the greatest document of history — the American Constitution. Fifty-five participated in drafting this Magna Charta of American liberty, and thirty-four were lawyers, or men who had at least studied law, some of them trained at the Middle Temple in London. Of these lawyers six had been or were to be state attorney generals, five chief justices of state supreme courts, four chancellors, three national judges, and five justices of the Supreme Court of the United States, of whom one served as chief justice, and one a President of the United States. Of the thirty-nine who actually signed the Constitution, twenty were lawyers.<sup>8</sup> In its final form the Constitution came from the Committee on Style, and four of the five members of this committee were able lawyers.<sup>9</sup> A member of this committee, Gouverneur Morris, a brilliant lawyer, with an unusual gift for lucid expression, a forcible debater and a firm believer in a national system, is generally given credit for the final very apt wording of the Constitution.<sup>10</sup>

When the states hesitated to ratify the Constitution, three lawyers, John Jay, Alexander Hamilton and James Madison, with their essays for *The Federalist*, crystallized public opinion. Jay became the first Chief Justice of the United States Supreme Court, Hamilton the nation's first Secretary of the Treasury, and Madison the fourth President of the United States.

Before we asserted our independence there were two Continental Congresses called to consider the grievances against which James Otis and his contemporaries were complaining. Of the first assemblage, more than one-half were lawyers, and in the second more than two-thirds were lawyers, which attests the dependence of the people upon them.

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<sup>8</sup> The twenty lawyers who signed the Constitution are Rufus King, William Samuel Johnson, Roger Sherman, Alexander Hamilton, William Livingston, David Brearley, William Paterson, Jared Ingersoll, James Wilson, Gouverneur Morris, George Reed, Gunning Bedford, Jr., Richard Bassett, John Dickinson, John Blair, James Madison, John Rutledge, Charles Cotesworth Pinckney, Charles Pinckney and William Few. There might be included the name of Abraham Baldwin, who was a clergyman and possibly a lawyer. BLOOM, *Portraits and Sketches of the Signers of the Constitution in THE STORY OF THE CONSTITUTION* (1937). In the address of President Roosevelt, at Washington, September 17, 1937, it was intimated that Madison was not a lawyer, but there is much authority to the effect that this statement is unfounded. In the BIOGRAPHICAL DIRECTORY OF THE AMERICAN CONGRESS 1774-1927, it is stated that he graduated from Princeton College in 1771, studied law at Princeton one year, returned to Virginia where he continued to study law, and was subsequently admitted to the bar.

<sup>9</sup> The four lawyers on the Committee on Style are Alexander Hamilton, Gouverneur Morris, James Madison and Rufus King. BECK, *THE CONSTITUTION OF THE UNITED STATES* (1922) 160.

<sup>10</sup> *Ibid.*



To what extent has the country depended upon lawyers since it attained freedom? Of the thirty-one presidents, twenty-three have been lawyers,<sup>11</sup> and of the forty-seven secretaries of state, forty-four were lawyers. Of the other cabinet members more than fifty per cent have been lawyers. In Congress, during the same periods, more than seventy per cent of all seats have been held by lawyers.

It is of considerable interest to note that during the 71st to 76th Congresses the Senate has included in its membership a fairly constant number of lawyers, ranging from 59 to 73, out of a total of 96 senators; or, on a percentage basis, from 61 to 76 per cent in each Congress.<sup>12</sup>

In the House of Representatives we also find during the 71st to 76th Congresses a constant number of lawyer-members, between 219 and 282; or 50 to 65 per cent of a total of 435 representatives.<sup>12</sup>

Of course, there are lawyers and "lawyers," those who are successful and who are not; those who are well-educated in general and well-trained in their professional specialty, and those who are neither. James Bryce thought rather well of the education of lawyers in politics, stating in the 1920 revised edition of his famous work "The American Commonwealth," that from the lawyers' ranks "comes a large part, probably a half, and the better educated half, of the professional politicians."

History throngs with examples of the achievements of lawyers, who not only played a vital role in laying the foundations of the new nation, but also strove to preserve it. A partial list of these men who exerted such an influence on the country must include Adams, Jefferson, Marshall, Monroe, Henry, Webster, Clay, Calhoun and Lincoln. They were not only great lawyers but great statesmen, and the contemplation of their work stirs our imagination and inspires our reverence. In every sense of the word they

<sup>11</sup> The presidents of the United States who studied law and practiced for at least a short time are John Adams, Thomas Jefferson, James Madison, James Monroe, John Quincy Adams, Andrew Jackson, Martin Van Buren, John Tyler, James K. Polk, Millard Fillmore, Franklin Pierce, James Buchanan, Abraham Lincoln, Rutherford B. Hayes, James A. Garfield, Chester A. Arthur, Grover Cleveland, Benjamin Harrison, William McKinley, William Howard Taft, Woodrow Wilson, Calvin Coolidge and Franklin D. Roosevelt.

<sup>12</sup> See Congressional Directory for the 71st to 75th Congresses, inclusive, and for the 76th Congress, 1st Session. The following table shows the number of attorneys in both the Senate and the House of Representatives from the 71st to 76th Congresses:

	71st	72nd	73rd	74th	75th	76th
Senate .....	59	65	68	68	73	67
House of Representatives .....	272	269	253	282	260	219

were the guardians of the law and they took their responsibilities soberly and seriously.

Nor has our own state failed to fill important public offices with men of our calling. In the seventy-six years of its existence, we have had twenty governors, and fifteen have been lawyers, including the present incumbent;<sup>13</sup> seventeen secretaries of state, and four have been lawyers; and fourteen auditors and four of them were lawyers.

Many West Virginia lawyers have attained prominence in national politics, and no list would be complete without William L. Wilson, of Charles Town, who served with distinction in the House of Representatives, and later as Postmaster General, in which position he originated the plan for the rural free delivery, the first route in the United States being out of Charles Town; Stephen B. Elkins, of Elkins, Secretary of War, and later a United States Senator; Nathan Goff, of Clarksburg, who at the age of twenty-three was given the rank of brevet brigadier general in the Union Army, and later served in succession as United States District Attorney, Secretary of the Navy, Member of the House of Representatives, Judge of the United States Circuit Court, a Justice of the Circuit Court of Appeals and United States Senator; Newton D. Baker, born in Martinsburg, but moved to Cleveland, Ohio, who served as Secretary of War under President Wilson and held many other important public commissions; and John Barton Payne, born in Pruntytown, but moved to Chicago, Illinois, and later to Washington, D. C., who served as Judge of the Superior Court of Cook County, Illinois, and was Secretary of the Interior, but possibly best known as Chairman of the American Red Cross. Then there is John W. Davis, of Clarksburg, who served in the House of Representatives in the 62nd and 63rd Congresses, resigned to become Solicitor General of the United States, and then was appointed Ambassador Extraordinary and Plenipotentiary to Great Britain, and subsequently served as President of the American Bar Association. Mention should also be made of Dwight W. Morrow, who was born in Huntington and later moved to New York City, and in 1927 was appointed Ambassador to Mexico.<sup>14</sup>

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<sup>13</sup> The fifteen lawyer governors of West Virginia are Arthur Ingram Boreman, John Jeremiah Jacob, Henry Mason Mathews, Jacob Beeson Jackson, Emanuel Willis Wilson, Aretas Brooks Fleming, William Alexander MacCorkle, George Wesley Atkinson, William M. O. Dawson, William Ellsworth Glascock, John Jacob Cornwell, Ephraim Franklin Morgan, William Gustavus Conley, Herman Guy Kump and Homer Adams Holt.

<sup>14</sup> CONLEY, WEST VIRGINIA ENCYCLOPEDIA (1929).

Until quite recently three of the great railway systems operating in West Virginia had at the head of their respective legal departments West Virginia lawyers,<sup>15</sup> and you all are aware that of the presidents of the American Bar Association during the past seventeen years West Virginia has furnished two of her distinguished sons.<sup>16</sup>

This is only a small part of the record made by lawyers in achieving for America so perfect a government in a democracy which we believe brings to our citizens the best protection and the most advantages offered by any other government in the world.

When Russia threw over the yoke of an imperial despotism she adopted neither the form nor the theory of democracy which we know and approve, but instead adopted a class government as vicious as the one which she discarded, practically eliminating all classes but one and limiting the political power to a very small fraction even of the dominant class. In Germany the situation is even more serious. A great people has set up a leader with power possibly never before possessed by a single individual. What he says is absolute law and attempts at petitions or protest meet with punishment for those who complain. The masses of the people are unrepresented and inarticulate, and freedom of the press, of speech and even of religious worship is no longer recognized. There they are imbued with the idea that men exist for the government and not the government for men. To the kingdom of Italy democracy has been carried for years by the sons of that country who came here and enjoyed and reaped the fruits of our freedom. As a consequence, Italy became thoroughly democratic in spirit, yet under the tension of modern conditions prevalent on the continent democracy was swept aside, and the majority of the people of that country, evidently doubting the capacity of representative government to function, either in international or domestic affairs, permitted power to be concentrated into the hands of a single individual, who selects the representatives of the people and determines the matter of their deliberations when they assemble in their legislative capacity and finally dictates the conclusions which they shall reach.

In Europe the trend in most nations is against our democratic philosophy of government, and it might be well to pause a moment and recall that just four days ago there was celebrated the one hundred and fiftieth anniversary of one of the most important events in American History. It is true that on September 17, 1787,

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<sup>15</sup> John J. Cornwell, Herbert Fitzpatrick and the late Edward W. Knight.

<sup>16</sup> John W. Davis and Clarence E. Martin.

the Federal Constitution was signed at Philadelphia, but it is equally true that not until September 25, 1789, did the first Congress submit to the thirteen states the first ten amendments to the Constitution, which are popularly and accurately known as our Bill of Rights. In them are found the most vital declarations ever made by men to assure the preservation of the most highly prized rights of a free people.

Here the conception of government is that it exists for men, to promote and safeguard their welfare and freedom, while in the totalitarian countries men exist for the state. In these United States men are the masters of their government, but in the dictatorial powers men are the servants of their governments.

In giving the lawyers credit for the particular form of government which we have, many people forget the important role which they have played in protecting that government from attacks both at home and abroad. In every war in which this country has been engaged the lawyers have participated, and in the World War, as in other wars, they rendered unselfish service in prominent positions with the government and on the field of battle, many making the supreme sacrifice. One young and patriotic lawyer of this city left the legislative halls of his state to follow the flag overseas and met a tragic death on a battlefield in France, and so we have the Roy E. Parrish Post of the American Legion.

But the lawyer has other problems which must be met. He appreciates that the laws which we have were influenced, if not actually made, by lawyers and have been handed down by precedents going back for generations, established and given to us by men and jurists born in the cradle of the law. He knows that we can only have a democracy, and with it liberty, if we have a wholesome respect for the law. He realizes that it is not a thing to be changed by the insolent will of an individual or by the pressure of the mob, but that it is a thing that must not be changed or sacrificed without mature consideration and deliberation. He is conscious of what our fathers had in mind when they wrote the Preamble of the Constitution, wherein they said that that Constitution would establish justice, insure domestic tranquillity and secure for us and our posterity the blessings of liberty. These are the things that mean more to humanity and freedom than anything else.

If reform is wanted — and reform in its most accepted sense is to be desired — let it be orderly and let it be within the powers of reason, of good sense and of good judgment, always having regard

for the experience that we have had in the past. That is what the lawyer wants. If the Constitution is to be amended he wants it amended in an orderly way and not by subterfuge.

By training and by experience the lawyer is taught to act deliberately, and not impulsively, and to consider carefully all sides of a question before he acts or speaks. Consequently, he is a steadying force in the community, and opposes snap judgment on public questions. He is not overwhelmed by hysteria and he does not jump to conclusions merely because of popular clamor by the ill-advised. In great crises, particularly on public or quasi-public questions, the lawyer exercises restraint and calls for investigation and deliberation, as opposed to hasty and ill-considered action. Thus he exercises a strong influence upon public opinion.

Modern business has become so gigantic in its scope and so delicate in its operation that the need for trained legal minds at the head even of business enterprises is becoming more and more recognized. In recent years, more than ever before, lawyers are being invited to take leading positions in the business world. We find them at the head of banks, insurance companies and other large financial and commercial institutions. In this capacity, to a large extent they dictate the policies of industry, its relations with labor and the public, and consequently, in this field, they have a far-reaching influence upon public opinion. Though the lawyer is required to defend private rights, it is also necessary that he defend and protect public interests. The lawyer is influential in public office, where he exercises executive, administrative and advisory functions.

As has been pointed out, the lawyers outnumber any other group in the Congress of the United States, and in this state they have always been well represented in the legislature and have dominated the executive branch of the government. It is said that government in a democracy is nothing more nor less than the operation of public opinion. Conceding this, then in educating, forming and directing the operation of intelligent and guided public opinion, the lawyer makes his greatest contribution to the welfare of his community.

In addition to the activities of lawyers individually, there are the activities of lawyers as groups. The American Bar Association and the state and local associations are constantly vigilant to improve conditions and exert great efforts to this end. These associations have standing committees on citizenship, taxation, juris-

prudence and law reform, legal aid work, labor, employment and social security, unauthorized practice of the law, legislation and other matters of interest to the public. Without compensation or other emolument, lawyers perform the arduous duties of these committees and contribute freely of their time and energy without complaint. They appear before various committees of the legislature and before other public officials and bodies to advocate measures which in their opinion are in the public interest. The benefits they secure have a direct and important bearing upon public opinion in the nation as well as in local communities. The bar of the country, standing as it does for better things in our government, helps supply the information to citizens in all walks of life which will enable them to formulate sounder judgments in important public affairs.

In our effort to mold enlightened public opinion, we must not overlook the effects of the unlawful practice of law upon the public. Much has been written and said during the last few years about the unlawful practice of law. We recognize and attempt to deal with the problem, but unless the public sees the evil in the situation our efforts are of no avail. We can cite a multitude of reasons why laymen do not and cannot represent the public interest as well as the practicing lawyer, but it is our duty to convince the public that it suffers from the unethical and the incompetent. We know the ethics, the ideals and the accomplishments of our profession, but these things are generally unknown to the public. We know how faith, confidence and integrity among lawyers and between lawyers and the courts govern the daily transactions in which we engage, but of these things the public is ignorant. We know what the bar associations are trying to do in the public interest, but to a great extent we have kept this knowledge to ourselves. In a large measure, the solution to this and the many other problems affecting the profession and the administration of justice lies in a program of public education. We must frankly admit that no policy and no group can long endure without the sanction of public opinion.

There are broader aspects of the situation than merely stamping out unlawful practice in our own community. Confidence of the people in the administration of justice and respect for the courts and the legal profession are matters of vital concern to every lawyer in the nation. We cannot reach a proper and effective solution by occasional spasmodic and isolated efforts. The situation requires the united efforts and concerted action of the entire bar,

Since the birth of freedom in America the lawyer has held an enviable place and has exerted a tremendous influence in his community. He recognizes that his responsibility does not end in the service of his clients, but that he owes a high duty and a great obligation to his state and nation. In view of what the lawyer is constantly doing in civic and patriotic fields, it seems unnecessary to deny the assertion of the carping critics who say that the bar is losing its influence or that the changing conditions which have made imperative the familiarity of the lawyer with the problems of business and industry have caused him to become a careless student of the law and a poorer citizen.

The lawyers of each state are the officers of its courts. They determine the moral and educational qualifications of those who seek to enter the profession, admit them to practice, and then have the responsibility for their conduct and discipline. The lawyers are an essential part of the American system of administering impartial justice under law. A legal profession subject to political control or intimidation would be as repugnant to the spirit of our institutions as a politically controlled judiciary, and such control or intimidation of the profession, if attempted, would in fact be an invasion of the province of the courts to regulate the conduct of their officers.

Irrespective of the criticism which is constantly heaped upon us, we must continue to maintain an independent bar — a bar courageous and outspoken in its championship of public interests, vigilant in the protection of the rights and privileges guaranteed by the Constitution, free of political coercion and above subserviency to the controversies of clients.

Lawyers are traditionally individualists; their service to clients is personal; they are most closely identified with their own community, its institutions, its industries and the problems of its people; they are instinctively opposed to arbitrary power and remote authority over matters of an essentially local nature. Our chief concern in improving the organization of our profession is to keep its work and its policies under the control of its members and avoid any grounds for a feeling that the organized bar is something aloof and under remote control. It must continue as the spokesman of all the lawyers and must represent faithfully the concensus of opinion of its own membership. It cannot be made the mouth-piece or agent of any political party, organization, group or interest, and it should voice resolutely the mature and independent

judgment of the whole profession, regardless of whether that collective judgment runs counter to the plans or wishes of any political group or politically-minded leadership.

The public must be made to understand that the opinion of the legal profession upon public questions, when deliberately and impartially ascertained, cannot be commanded by retainers, beguiled by office or favors, or coerced and intimidated by political attacks upon individuals or upon the profession as a whole.

In recent years our profession has been soundly abused because it dared to oppose arbitrary and centralized power, took up the cudgel for an independent judiciary and advocated a return to constitutional government. If this is heresy then we should be condemned, but whenever the welfare, future and happiness of this country are in jeopardy and are the common subject of discussion, the considered and disinterested counsel of a profession that cannot be bought, browbeaten, silenced or made subservient to any political power or purpose will be at the service of the people.

Great national issues involve us, and in the grave discussions immediately ahead, we must set an example for tolerance, breadth of outlook, recognition of the other fellow's point of view, and patriotic adherence to the American tradition of liberty under law.

Possibly not since the signing of the Declaration of Independence has there been a time when there was as great a demand for lawyers of learning, courage and foresight as the present. New and untried economic and administrative theories have been enacted into law, and questions are constantly arising whether such enactments are within the powers granted by the Constitution to the legislative branch of our government. These are serious questions. Many are very close and their solution calls for keen and painstaking analytical ability. In keeping with the interest and activities of the members of the profession during the past century and a half, lawyers are giving their time and attention to these problems, realizing that upon their correct solution depends the stability of our government; indeed, perhaps, the perpetuity of our nation. Lawyers can contribute no better nor more helpful service to the public than the right judicial determination of the questions presented. The demands upon the profession are greater than ever before and make it imperative that the law student of today devote considerable time to a thorough preparation in administrative law,



taxation and legislation, subjects not found in our law school curriculum a few decades ago, so he may be better qualified to participate intelligently in the settlement of these complex and important problems, and thus assure the preservation of our American political philosophy.